IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JEFFREY ALLEN T	HOMAS,)	
	Petitioner,)	
v.)	1:15cv19
FRANK L. PERRY,)	
	Respondent.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on March 2, 2016, was served on the parties in this action. (ECF Nos. 13, 14.) Petitioner objected to the Recommendation. (ECF No. 15.)

The court has appropriately reviewed the portions of the Magistrate Judge's Recommendation to which objection was made and has made a *de novo* determination which is in accord with the Magistrate Judge's Recommendation. Petitioner raises one novel issue not previously addressed in his petition or brief. Petitioner alleges that he received ineffective assistance of counsel because "[n]ever once did [his] attorney state [his] innocence to the jury." (ECF No. 15 ¶ 6.) To prove ineffective assistance of counsel generally a petitioner must establish: (1) that his attorney's performance fell below a reasonable standard for defense attorneys, and (2) that he was prejudiced by this performance. *See Strickland v. Washington*, 466 U.S. 668, 687-94 (1984). Even if the Court found that the attorney's action fell below an objective standard of reasonableness, the undersigned is confident that the result of the case would be the same. Further, apart from this one sentence, the Petitioner does not explain

how this act unduly prejudiced him. "Unsupported, conclusory allegations do not entitle a

habeas petitioner to an evidentiary hearing." Nickerson v. Lee, 971 F.2d 1125, 1136 (1992).

The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Respondent's motion for summary judgment

(ECF No. 8) is GRANTED, and that the Petition (ECF No. 1) is DISMISSED. A judgment

dismissing this action will be entered contemporaneously with this Order. Finding no

substantial issue for appeal concerning the denial of a constitutional right affecting the

conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This, the 31st day of March, 2016.

/s/ Loretta C. Biggs United States District Judge

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